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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA S.J.

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE, CALIFORNIA

No. C 07-03328 JW

SHI'A ASSOCIATION OF THE BAY AREA;
DR. NABI RAZA MIR; SYEDA ZAHERA;
AHMED MIR; ALI MIR,

Plaintiffs,

vs.

MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;

ALBERTO GONZALES, Attorney General,
United States;

EMILIO GONZALEZ, Director, United
States Citizenship & Immigration
Services;

CHRISTINA POULOS, Director,
California Service Center;

GERARD HEINAUER, Director, Nebraska
Service Center,

Defendants.

Renewed Application for
Temporary Restraining Order

1 1. Plaintiffs, through under-signed Counsel, renew their
2 request for a temporary restraining order and respectfully
3 request the Court to reverse its denial of Plaintiffs' previous
4 request, since that finding was based on a mistake of fact, as
5 the plaintiffs Dr. Mir and his family members will begin to
6 accrue over 180 days of unlawful presence/unlawful employment
7 after June 30, 2007.

9 2. On June 25, 2007, Plaintiffs filed a Memorandum of
10 Points and Authorities in Support of Ex Parte Application for a
11 Temporary Restraining Order and Order to Show Cause Re:
12 Preliminary Injunction, which argued that Plaintiff Dr. Nabi
13 Raza Mir and his family are at imminent risk of accruing over
14 180 days of unlawful presence in the United States. The
15 Memorandum outlined the factual background of Plaintiffs'
16 immigration status, noting that Dr. Mir and his family fell out
17 of lawful status on January 1, 2007. The Plaintiffs argued that
18 after 180 days of remaining in unlawful status, they would
19 suffer irreparable harm, namely, inability to adjust status to
20 lawful permanent residence and inability to re-enter the United
21 States for a period of 3 to 10 years. The 180th day of
22 Plaintiffs' unlawful status, calculated from January 1, 2007, is
23 June 30, 2007 (Saturday).

24 3. Along with the Application and Memorandum in support
25 of their request for a temporary restraining order, Plaintiffs'
26
27 Renewed Application for
28 Temporary Restraining Order

1 counsel submitted a Certification by Attorney Re: Service of TRO
2 to Defendants, which mistakenly stated that Plaintiffs will
3 accrue 180 days of unlawful presence on *July 30, 2007*. This was
4 a typographic error, since Plaintiffs will accrue 180 days of
5 unlawful presence on *June 30, 2007*, not *July 30, 2007*.
6

7 4. On June 26, 2007, this Court issued an order denying
8 Plaintiffs' request for a temporary restraining order, but
9 granting Plaintiffs' motion for an Order to Show Cause. The
10 Court noted that "[t]here is sufficient time for a hearing on an
11 Order to Show Cause . . . before Plaintiffs are at imminent risk
12 of accruing over 180 days of 'unlawful presence' in the United
13 States." The Court then scheduled a hearing for July 23, 2007
14 at 9 a.m., for Defendants to show cause why a preliminary
15 injunction should not be granted.
16

17 5. The Court's order appears to be based on the
18 typographic error in Counsel's certification. However,
19 Plaintiffs fell out of lawful status on January 1, 2007, making
20 June 30, 2007 the 180th day of their unlawful presence.
21

22 6. In the interest of justice and judicial efficiency,
23 the Court should reconsider and reverse its denial of
24 Plaintiffs' request for a temporary restraining order, since it
25 was based on a mistake of fact. The Court's June 26, 2007 order
26 would unduly prejudice Plaintiffs, due to no fault of their own.
27 Counsel accepts full responsibility for the typographic error
28

Renewed Application for
Temporary Restraining Order

1 and respectfully requests the Court to reverse the factual error
2 and grant Plaintiffs' request for a temporary restraining order
3 based upon Plaintiffs' previously-filed Complaint and the
4 Application and Memorandum in support of their request for a
5 temporary restraining order.
6

7
8 Dated: June 27, 2007

Respectfully Submitted,

9
10 

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE, CALIFORNIA

	)	No. C 07-03328 JW
SHI'A ASSOCIATION OF THE BAY AREA;)	
DR. NABI RAZA MIR; SYEDA ZAHERA;)	
AHMED MIR; ALI MIR,	)	[Proposed] Temporary
	)	Restraining Order and Order
Plaintiffs,	)	to Show Cause re: Preliminary
	)	Injunction
vs.)	
)	
MICHAEL CHERTOFF, Secretary,)	
Department of Homeland Security;)	
)	
ALBERTO GONZALES, Attorney General,)	
United States;)	
)	
EMILIO GONZALEZ, Director, United)	
States Citizenship & Immigration)	
Services;)	
)	
CHRISTINA POULOS, Director,)	
California Service Center;)	
)	
GERARD HEINAUER, Director, Nebraska)	
Service Center,)	
)	
)	
Defendants.)	
)	

1
2 After considering the moving papers filed in this action, the
3 Court finds:

4 (1) that this is a proper case for issuance of an order to show
5 cause; and
6

7 (2) that, unless the Court issues a temporary restraining order,
8 Plaintiffs will suffer irreparable injury before the matter can
9 be heard on formal notice.
10

11 **IT IS ORDERED that:**

12 1. Defendants appear before this Court on _____ at
13 _____, to show cause why a preliminary injunction should not
14 be issued, enjoining them from calculating Plaintiffs' continued
15 presence in the United States towards their "unlawful presence"
16 or their periods of unauthorized employment in the United
17 States.
18
19

20 2. Pending the hearing on the order to show cause, Defendants,
21 their agents, officers, employees, and representatives, and all
22 persons acting in concert or participating with them, be
23 enjoined from calculating Plaintiffs Dr. Nabi Raza Mir's, Syeda
24 Zahera's, Ahmed Mir's, and Ali Mir's continued stay in the
25 United States towards their "unlawful status," periods of
26 unauthorized employment, or "unlawful presence" pursuant to INA
27
28

1 §§ 245(k) and 212(a)(9), 8 U.S.C. §§ 1255(k), 1182(a)(9).

2
3 3. A copy of the complaint, declaration(s), and memorandum of
4 points and authorities, together with a copy of this order to
5 show cause and temporary restraining order, be served on
6 Defendants no later than _____.
7

8
9
10 **SO ORDERED.**

11
12 DATE: _____

13 JAMES WARE
14 United States District Judge
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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE, CALIFORNIA

11	SHI'A ASSOCIATION OF THE BAY AREA;	)	No. C 07-03328 JW
12	DR. NABI RAZA MIR; SYEDA ZAHERA;)	
13	AHMED MIR; ALI MIR,	)	Certification by Attorney
14	Plaintiffs,	)	Re: Service of "Renewed
15	vs.	)	Application for Temporary
16		)	Restraining Order And Request
17	MICHAEL CHERTOFF, Secretary,	)	to Correct Factual Error" to
18	Department of Homeland Security;	)	Defendants
19	ALBERTO GONZALES, Attorney General,)	
20	United States;)	
21	EMILIO GONZALEZ, Director, United)	
22	States Citizenship & Immigration)	
23	Services;)	
24	CHRISTINA POULOS, Director,)	
25	California Service Center;)	
26	GERARD HEINAUER, Director, Nebraska)	
27	Service Center,)	
28	Defendants.)	

1 1. My name is Mary Beth Kaufman and I am an attorney
2 representing Plaintiffs in the above-titled action.
3

4 2. Under L.R. 65(b), I certify that I have made best
5 efforts to serve the U.S. Attorney's Office and all defendants
6 named in the action, with Plaintiffs' Renewed Application for
7 Temporary Restraining Order And Request to Reverse Factual Error
8 ("Renewed Application").
9

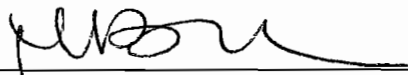
10 3. I am concurrently serving the U.S. Attorney's Office with
11 the Renewed Application on June 27, 2007.

12 4. On June 30, 2007 (Saturday), Plaintiffs will accrue
13 180 days of unlawful presence, which will bar them from
14 adjustment of status or re-entry into the United States for a
15 period of 3 to 10 years, if the Court does not grant their
16 request.
17

18 5. I practice law in San Francisco, CA and have traveled
19 to San Jose, only in order to file Plaintiffs' Renewed
20 Application. It would be difficult for me to return to the
21 Court later this week in order to be heard on the matter after
22 Defendants receive actual notice of the request.
23

24 I certify under penalty of perjury that the above
25 statements are true and correct.
26

27
28 _____
Date



Mary Beth Kaufman